

BOARD OF APPEALS CASE NO. 4981

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BEFORE THE

APPLICANT: Colgate Investments LLP

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ZONING HEARING EXAMINER

REQUEST: Variances for an existing  
billboard sign to be located in an Integrated  
Community Shopping Center; 2101 Rock  
Spring Road, Forest Hill

\*

OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/27/99 & 11/3/99

HEARING DATE: December 8, 1999

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Record: 10/29/99 & 11/5/99

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant is requesting a variance pursuant to Section 219-17 from the provisions of Section 219-15(A), (B) and (C) of the Harford County Sign Code, to permit an existing billboard sign on the subject property and a variance pursuant to Section 267-11 from 267-47(A)(6)(d) to allow the existing sign to be located in an Integrated Community Shopping Center in a B2, Community Business District.

The subject parcel is located at 2101 Rock Spring Road in the Third Election District. The subject property is designated among the records of the State Department of Assessments and Taxation as Map 40, Parcel 231 (Lot 1) and is 7.135 acres in size.

Mr. Howard Klein, a partner of the Applicant, appeared on behalf of the Applicant. Mr. Klein testified that the subject property, Lot 1, and the adjoining lots are owned and managed by the Applicant. Lot 1 is improved with the Klein's Superthrift grocery store. Lot 2, which is improved with a Baltimore County Savings Bank branch, received Integrated Community Shopping Center approval. Lot 4 is improved with an office building occupied by a travel agency, Travel Makers, and a hair salon, Debbie's Mane Concern.

The witness testified that the existing sign was originally erected in the 1980's when the supermarket was built. As adjoining properties were subdivided and developed, panels identifying new users operating from the new lots were added to the sign. Mr. Klein testified that he was unaware that doing so would transform the sign into billboard sign. He stated that as soon as he learned of this he sought the proper zoning approval for the sign.

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Mr. Klein indicated that the location of the existing sign was the most logical in that it provided good visibility for the uses conducted from the lots and was located at the only entrance that serves all of the lots. He said there was no other commercially reasonable means of providing visibility for the uses except on the existing sign. Additional access points are not permitted as Route 24 is a limited access highway. He testified that he could erect individual freestanding signs on each of the lots if the variance were not granted. However, he said that he would prefer to limit the number of freestanding signs on the lots.

Mr. Klein testified that granting the requested variances would not cause any harm to anyone. He pointed out that neither the size nor the location of the existing sign will change if the variances are granted. It is only the addition of sign panels for the other users which requires the variance. The existing sign has been located in the same location for many years without adverse impact. The subject property was zoned for and developed with commercial uses. Moreover, he testified that the existing sign itself would remain unchanged, only its classification under the Code will change. He emphasized that the existing sign has not caused any adverse impact.

Mr. Klein also testified that he had reviewed the Staff Report prepared by the Department of Planning and Zoning in the instant case which recommended approval of the requested variances on two conditions. He indicated that both conditions are acceptable to him. In addition, he requested that the Applicant be allowed to change the sign panels on the sign without obtaining additional Board approval.

No protestants appeared in opposition to the Applicant's request.

Anthony S. McClune of the Department of Planning and Zoning, summarized the Department's Staff Report which recommended conditional approval of the Applicant's request. Mr. McClune also said that the Department did not object to permitting the Applicant to change sign panels in the future without Board approval.

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### CONCLUSION:

Section 219-1 of the Code, entitled "Purpose," provides that "[t]he purpose of this Chapter is to regulate all exterior signs, so as to protect property values, to protect the character of various neighborhoods in the County, to preserve and enhance natural scenic beauty, to protect health, safety and morals and to promote the general welfare."

Section 219-4 of the Code, entitled "Definitions," defines billboard as "Any outdoor advertising sign which promotes or advertises products, services, activities or business not related to the site or building or use on which it is located."

Section 219-15 of the Code, entitled "Billboards," provides in pertinent part that Billboards are permitted in the General Business (B3) Districts. All such signs shall be set back from the front property line the distance required for a principal building in the zoning district in which located. No billboard shall be permitted to be erected within 100 feet of a road intersection unless the base of the sign is not less than 10 feet above ground level or road surface, whichever is higher. A billboard shall be no more than 40 feet in height above road grade.

Section 219-17 of the Code, entitled "Variances," provides as follows:

"The Board may grant a variance from the provisions of this Chapter if, by reason of the configuration or irregular shape of a lot or by reason of topographic conditions or other exceptional circumstances unique to the lot, practical difficulty or unreasonable hardship results..."

Section 267-11 of the Code authorizes the granting of variances provided the Board finds that:

- (1) by reason of the uniqueness of the property or topographical conditions literal enforcement of Part 1 will result in practical difficulty or unreasonable hardship; and
- (2) the variance will not be substantially detrimental to adjacent properties and will not materially impair the purposes of this Part 1 or the public interest.

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Based on the evidence presented, the Hearing Examiner finds that the provisions of Sections 219-17 and 267-11 of the Code would be met and that the requested variances should be granted. The subject property is part of Klein's Commercial Park which contains a variety of businesses such as automotive, personal and professional uses and other services. The portion of the property that is before the Board is the main northern most entrance to the Park. The original sign structure has been at this location since the first business, Klein's Super Thrift, was developed in 1980. The Staff Report indicated that the use of this type of sign, advertising several business enterprises and services at one location, is preferred over each individual lot or business having its own freestanding structure. The Department is of the opinion that reducing the number of freestanding signs improves the overall aesthetics and, therefore, has a positive effect on the surrounding community.

When the sign was originally approved in 1980 under Permit No. 673-81, it was approved as a free-standing sign for the Klein's Super Thrift. The setback for an individual freestanding commercial sign is one-third of the required 25 foot setback for the district. Now that the sign is considered a billboard, the minimum setback of the sign is 25 feet. The existing setback is 18 feet; however, due to the right-of-way of Route 24, the sign sits 50± feet from the edge of the traveled portion of Route 24. This excess setback makes the subject property unique. The Hearing Examiner finds that a variance for the setback should have little or no adverse impact on the intent of the Code and/or the surrounding properties.

The Hearing Examiner finds that the subject property has exceptional circumstances unique to it in that all of the lots which share the sign are owned by the same entity and are separated by paper lot lines. For all intents and purposes, the Lots constitute one parcel. No other commercially reasonable means to advertise users of the other Lots exists except for the subject sign located on Lot 1. Thus, denial of the variance to permit the sign to remain in its existing location would cause practical difficulty to the Applicant. The existing sign meets all requirements for a freestanding sign and has existed for many years without impact.

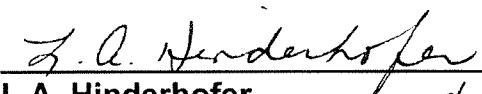
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It is only the addition of name panels for uses located on the adjoining Lots which transforms the sign from a permitted freestanding sign to a billboard under the Code that makes the variance necessary. The size of the sign itself will not change. These conditions and exceptional circumstances are unique and cause the difficulty or hardship noted above. Because no change to the sign will take place and the freestanding sign is otherwise permitted, no adverse impact would result. Because the area where the sign is located is intensely developed with commercial uses with similar signs, the variance can be granted without impairing the purpose of the Code.

Therefore, the requested variances pursuant to Section 267-11 and 219-17 of the Code to allow the Billboard sign to be erected on the subject property, zoned B2 Community Business District, as shown on the Applicant's site plan, is hereby recommended subject to the following conditions:

1. The Applicant obtain permits for each individual sign, (Bank of America, BCSB, Debbie's Mane Concern and Travel Makers).
2. The overall size of the sign structure shall not be enlarged.
3. The Applicant shall be permitted to substitute individual sign panels on the sign structure provided the Applicant obtains all required permits.

Date DECEMBER 16, 1999

  
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L.A. Hinderhofer do  
Zoning Hearing Examiner